

REMARKS

The Applicant has reviewed the Restriction Requirement of April 27, 2009. The Applicant submits that this paper is responsive to all points raised therein.

Status of the Claims

Claims 1, 2 and 5-44 are pending. The Examiner restricted claims 1, 2 and 5-44 to the following groups.

- I. Claims 1-2, 5-20 and 35 drawn to the tile cap, classified in class 52, subclass 390.
- II. Claims 21-33, 36-44 drawn to a method of capping a tile, classified in class 52, subclass 745.06.

Election of the Species

Applicant traverses the restriction and elects Group I. In addition, Applicant believes that the Examiner has inadvertently excluded Claim 34 from Group I. Applicant respectfully requests that Claim 34 be included in the ongoing prosecution of this application.

Traverse

There are two criteria for a proper requirement for restriction: (1) more than one invention is claimed and the inventions are independent or distinct as claimed and (2) there must be a serious burden on the examiner if restriction is required. MPEP 803.01. If the search and examination of an entire application or a set of claims can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. MPEP 803.01. There would be no serious burden on the examiner to search and examine the claims in groups I and II. Groups I and II contain only nine independent claims and 42 total claims. Applicant has demonstrated that all claims should be prosecuted in one application and not restricted.

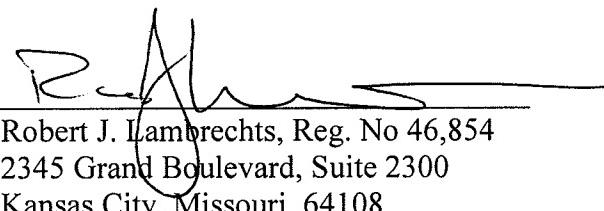
Conclusion

The Commissioner is hereby authorized to charge any additional fees due to Deposit Account No. 12-0600. Should any questions arise, the Examiner is encouraged to telephone the

undersigned attorney. This is intended to be a complete response to the Examiner's Restriction Requirement mailed on April 27, 2009.

Respectfully Submitted,

LATHROP & GAGE LLP

By 

Robert J. Lambrechts, Reg. No 46,854
2345 Grand Boulevard, Suite 2300
Kansas City, Missouri 64108
Tel: (913) 451-5126
Fax: (816) 292-2001
Attorney for Applicant